

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EILEEN POLIZZI, FUND MANAGER
of the TEAMSTERS LOCAL 404
HEALTH SERVICES AND INSURANCE PLAN,
Plaintiff,

v.

N&B EXPRESS, INC. and JAMES CAPELLI
Defendants,

and

BANK OF WESTERN MASSACHUSETTS,
Trustee.

CIVIL ACTION NO.

05 - 30183 - MAP

Preliminary Injunction
Temporary Restraining Order

MAP
9.7.05

This matter came on for hearing upon the Verified Complaint and Application For A Temporary Restraining Order ^{*} of the plaintiff Fund Manager of the Teamsters Local Union No. 404 Health Services and Insurance Plan. The defendants were notified of the application. The parties appeared and were afforded an opportunity to be heard, through counsel. It appearing from the Verified Complaint and the Affidavits of Eileen Polizzi and Ronald Easton that the Fund has a substantial likelihood of success on the merits, and it further appearing that the Fund will sustain irreparable harm in the absence of injunctive relief, NOW THEREFORE in consideration thereof it is hereby ORDERED:

1. N & B Express, Inc., its officers, agents, employees and attorneys, and those persons in active concert or participation with them who receive actual notice of this order through personal service or otherwise are hereby enjoined and restrained from transferring, alienating or otherwise disposing of the process of any sale of defendant's assets, to the extent of \$ 485,000.00, pending a further order of this court.
2. James Capelli, and those persons in active concert or participation with him who receive actual notice of this order through personal service or otherwise are hereby enjoined and restrained from transferring, alienating or otherwise disposing of the process of any sale of defendant's assets, to the extent of \$ 75,000.00, pending a further order of this court.

**The court has treated this as a motion for preliminary injunction. MAP 9.7.05*

3. This matter shall be set down for hearing on *request from either defendant* for further consideration of Prayer 2 of the Verified Complaint, ~~which seeks a preliminary injunction consistent with the terms of the foregoing order.~~
- MAP 9.7.05
MAP 9.7.05

By the Court,

Michael D. Perry
United States District Judge

Date: *Sept. 7, 2005*

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